

## Federal Deposit Insurance Corporation

## § 390.300

which interest may be paid if issued subject to the following limitations:

(1) The State savings association shall reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account; and

(2)(i) The depositor is authorized by the State savings association to make no more than six transfers per calendar month or statement cycle (or similar period) of at least four weeks by means of preauthorized, automatic, telephonic, or data transmission agreement, order, or instruction to another account of the depositor at the same State savings association to the State savings association itself, or to a third party.

(ii) State savings associations may permit holders of MMDAs to make unlimited transfers for the purpose of repaying loans (except overdraft loans on the depositor's demand account) and associated expenses at the same State savings association (as originator or servicer), to make unlimited transfers of funds from this account to another account of the same depositor at the same State savings association or to make unlimited payments directly to the depositor from the account when such transfers or payments are made by mail, messenger, automated teller machine, or in person, or when such payments are made by telephone (via check mailed to the depositor).

(3) In order to ensure that no more than the number of transfers specified in paragraph (a)(2)(i) of this section are made, a State savings association must either:

(i) Prevent transfers of funds in excess of the limitations; or

(ii) Adopt procedures to monitor those transfers on an after-the-fact basis and contact customers who exceed the limits on more than an occasional basis. For customers who continue to violate those limits after being contacted by the depository State savings association the depository State savings association must either place funds in another account that the depositor is eligible to maintain or take away the account's transfer and draft capacities.

(iii) Insured State savings associations at their option, may use on a con-

sistent basis either the date on a check or the date it is paid in determining whether the transfer limitations within the specified interval are exceeded.

(b) State savings associations may offer MMDAs to any depositor not inconsistent with applicable state law.

### § 390.297 Negotiable Order of Withdrawal Accounts.

(a) *Negotiable Order of Withdrawal (NOW)* accounts are savings accounts authorized by 12 U.S.C. 1832 on which the State savings association reserves the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account.

(b) For purposes of 12 U.S.C. 1832:

(1) An organization shall be deemed "operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and \* \* \* not \* \* \* for profit" if it is described in sections 501(c)(3) through (13), 501(c)(19), or 528 of the Internal Revenue Code; and

(2) The funds of a sole proprietorship or unincorporated business owned by a husband and wife shall be deemed beneficially owned by "one or more individuals."

### § 390.298 Nonresidential construction loan.

The term *nonresidential construction loan* means a loan for construction of other than one or more dwelling units.

### § 390.299 Nonwithdrawable account.

The term *nonwithdrawable account* means an account which by the terms of the contract of the accountholder with the State savings association or by provisions of state law cannot be paid to the accountholder until all liabilities, including other classes of share liability of the State savings association have been fully liquidated and paid upon the winding up of the State savings association is referred to as a *nonwithdrawable account*.

### § 390.300 Note account.

The term *note account* means a note, subject to the right of immediate call, evidencing funds held by depositories electing the note option under applicable United States Treasury Department regulations. Note accounts are

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not savings accounts or savings deposits.

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### § 390.302 Officer.

The term *Officer* means the president, any vice-president (but not an assistant vice-president, second vice-president, or other vice president having authority similar to an assistant or second vice-president), the secretary, the treasurer, the comptroller, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated. The term *officer* also includes the chairman of the board of directors if the chairman is authorized by the charter or by-laws of the organization to participate in its operating management or if the chairman in fact participates in such management.

### § 390.303 Parent company; subsidiary.

The term *parent company* means any company which directly or indirectly controls any other company or companies. The term *subsidiary* means any company which is owned or controlled directly or indirectly by a person, and includes a subsidiary owned in whole or in part by a State savings association, or a subsidiary of that subsidiary.

### § 390.304 Political subdivision.

The term *political subdivision* includes any subdivision of a public unit, any principal department of such public unit:

(a) The creation of which subdivision or department has been expressly authorized by state statute,

(b) To which some functions of government have been delegated by state statute, and

(c) To which funds have been allocated by statute or ordinance for its exclusive use and control. It also includes drainage, irrigation, navigation, improvement, levee, sanitary, school or power districts and bridge or port authorities and other special districts created by state statute or compacts between the states. Excluded from the term are subordinate or nonautonomous divisions, agencies or boards within principal departments.

## 12 CFR Ch. III (1–12 Edition)

### § 390.305 Principal office.

The term *principal office* means the home office of a State savings association established as such in conformity with the laws under which the State savings association is organized.

### § 390.306 Public unit.

The term *public unit* means the United States, any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, the Virgin Islands, any county, any municipality or any political subdivision thereof.

### § 390.307 Savings account.

The term *savings account* means any withdrawable account, except a demand account as defined in § 390.290, a tax and loan account, a note account, a United States Treasury general account, or a United States Treasury time deposit-open account.

### § 390.308 State savings association.

The term *State savings association* means a State savings association as defined in section 3 of the Federal Deposit Insurance Act, the deposits of which are insured by the Corporation. It includes a building and loan, savings and loan, or homestead association, or a cooperative bank (other than a cooperative bank which is a State bank as defined in section 3(a)(2) of the Federal Deposit Insurance Act) organized and operating according to the laws of the State in which it is chartered or organized, or a corporation (other than a bank as defined in section 3(a)(1) of the Federal Deposit Insurance Act) that the Board of Directors of the Federal Deposit Insurance Corporation determine to be operating substantially in the same manner as a State savings association.

### § 390.309 Security.

The term *security* means any non-withdrawable account, note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate